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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Jane Smith, a single woman,

Plaintiff,

v.

Tucson Unified School District, a political
subdivision of the State of Arizona; Zobella
Brazil Vinik, a single person;

Defendants.

No. 4:25-cv-00025-JGZ

ANSWER

(Assigned to the Honorable
Jennifer G. Zipps)

Defendant Tucson Unified School District (District)—for its separate answer to
plaintiff’s complaint—admits, denies, and alleges as follows:

I.

The District lacks knowledge or information sufficient to form a belief about the
truth of the allegations of paragraph 1.

II.

The District admits the allegations of paragraph 2.

III.

The District denies the allegations of paragraph 3.

IV.

In response to paragraph 4, the District admits that Vinik worked as a school counselor for less than a school year from about August 2, 2021 to May 9, 2022. The District lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations.

V.

The District denies the allegations of paragraphs 5 and 6.

VI.

The District lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 7.

VII.

The District denies the allegations of paragraphs 8 and 9.

VIII.

In response to paragraph 10, the District admits that Jane Smith was in her second year of high school during SY21-22 and that Vinik worked part of the year as a school counselor. The District lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations.

...

...

IX.

The District lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 11.

X.

The District denies the allegations of paragraphs 12 through 14

XI.

The District lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 15 and 16.

XII.

The District denies the allegations of paragraphs 17 and 18.

XIII.

The District lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraphs 19 through 22.

XIV.

The District denies the allegations of paragraphs 23 through 25.

First Claim for Relief—Negligence (TUSD)

XV.

In response to paragraph 26, the District incorporates all prior admissions, denials, and allegations.

...

...

XVI.

In response to paragraphs 27 through 29, the District admits that it owes a duty of reasonable care to students when they are within its custody and/or control. The District denies the remaining allegations.

XVII.

The District denies the allegations of paragraphs 30 through 32.

Second Claim for Relief—Assault and Battery

XVIII.

In response to paragraph 33, the District incorporates all prior admissions, denials, and allegations.

XIX.

The District lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 34.

XX.

The District denies the allegations of paragraphs 35 and 36.

Third Claim for Relief—Civil Rights (Vinik)

XXI.

In response to paragraph 39 [sic], the District incorporates all prior admissions, denials, and allegations.

...

...

XXII.

The District lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 40 [sic].

XXIII.

The District denies the allegations of paragraphs 41 [sic] through 43 [sic].

DEFENSES, DENIALS, AND ALLEGATIONS APPLICABLE TO EACH AND EVERY CLAIM FOR RELIEF

XXIV.

The District denies every complaint allegation not expressly admitted above.

XXV.

The District alleges that plaintiff failed to properly comply with A.R.S. § 12-821.01.

XXVI.

Assuming the truth of plaintiff's allegations, the District alleges Vinik's primary, if not exclusive, fault.

XXVII.

The District reserves the right to allege the fault of any other party or nonparty pending further discovery.

XXVIII.

The District asserts its immunity under A.R.S. § 12-820.05.

XXIX.

The District has not yet had a reasonable opportunity to complete discovery. Because of the possibility that facts and circumstances may be discovered later, which may

1 substantiate one or more of the following affirmative defenses, the District reserves the
2 right in accordance with Rules 8 and 12, to allege the following: failure to state a claim
3 upon which relief can be granted, failure to join a person needed for just adjudication,
4 contributory negligence, estoppel, laches, license, payment, release, res judicata, statute of
5 limitations, waiver, and any other matter constituting an avoidance or affirmative defense,
6 including A.R.S. §§ 12-820 *et seq.*
7

8
9 WHEREFORE, having fully defended, the District respectfully requests that
10 plaintiff's complaint and all causes of action therein be dismissed and that plaintiff take
11 nothing thereby. The District further requests an award for its costs of suit and attorneys'
12 fees, if appropriate, and for all such other relief that the Court deems just and proper.
13

14 DATED this 17th day of January, 2025.

15 WELKER & PAUOLE, PLC
16

17 By /s/ David K. Pauole
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19 Heather M. Hampstead
20 10429 South 51st Street, Suite 285
21 Phoenix, AZ 85044
22 Attorneys for Defendant Tucson Unified
23 School District
24

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26 ...

27 ...
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CERTIFICATE OF SERVICE

I hereby certify that on January 17, 2025, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing.

COPIES mailed to:

The Honorable Jennifer G. Zipps
United States District Court
Evo A. DeConcini U.S Courthouse
405 West Congress Street, Suite 5190
Tucson, AZ 85701-5053

/s/ Cindy M. Opsahl

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